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SUPREME COURT OF THE UNITED STATES

October 1997 Term

DAN RODNEY JOOS,
Petitioner,

vs.

PIPER C. JOOS,
Respondent

PETITION FOR WRIT OF CERTIORARI TO
THE UTAH SUPREME COURT

PETITION FOR WRIT OF CERTIORARI

Dan Rodney Joos, *Pro Se Petitioner*
c/o Dr. Gene R. Fuller
2446 East Sabal
Salt Lake City, Utah 84121
Telephone (801) 944-5870

58 pp

Question presented for review

Do State Courts violate the Fourteenth Amendment to the United States Constitution when they deny us the opportunity to preserve our marriage?

ALL PARTIES

Dan Rodney Joos	Petitioner
Piper C. Joos	Respondent
Anthony Dan Joos	Son to this marriage
Aaron Kent Joos	Son to this marriage
Alexander Brent Joos	Son to this marriage

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JURISDICTION

On January 14, 1998, the Utah Supreme Court issued an order denying both marriage preservation procedures and a motion for a hearing to present the important reasons why such procedures should be granted. 28 USCS § 1257 confers jurisdiction on the Supreme Court of the United States.

CONSTITUTIONAL PROVISIONS

United States Constitution

Amendment XIV Section 1.

"All persons born or naturalized in the United States, and subject to the jurisdiction thereof, are citizens of the United States and of the State wherein they reside. No State shall make or enforce

any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws."

STATUTES: UTAH CODE

30-3-11.1. Family Court Act - Purpose.

"It is the public policy of the State of Utah to strengthen the family life foundation of our society and reduce the social and economic costs to the state resulting from broken homes and to take reasonable measures to preserve marriages, particularly where minor children are involved. The purposes of this act are to protect the rights of children and to promote the public welfare by preserving and protecting family life and the institution of matrimony by providing the courts with further assistance for family counseling, the reconciliation of spouses and the amicable settlement of domestic and family controversies."

30-3-12. Courts to exercise family counseling powers.

"Each district court of the respective judicial districts, while sitting in matters of divorce, annulment, separate maintenance, child custody, alimony and support in connection therewith, child custody in habeas corpus proceedings, and adoptions, shall exercise the family counseling powers conferred by this act."

30-3-16.1. Jurisdiction of family court division - Powers.

"Whenever any controversy exists between

spouses which may, unless a reconciliation is achieved, result in the dissolution or annulment of the marriage or in the disruption of the household, and there is a child of the spouses or either of them under the age of 17 years whose welfare might be affected, the family court division of the district court shall have jurisdiction over the controversy , over the parties and over all persons having any relation to the controversy and may compel attendance before the court or a domestic relations counselor of the parties or other persons related to the controversy. The court may make orders in divorce or conciliation proceeding as it deems necessary for the protection of the family interests."

30-3-16.2. Petition for conciliation.

"Prior to the filing of any action for divorce, annulment, or separate maintenance, either spouse or both spouses may file a petition for conciliation in the family court division invoking the jurisdiction of the court for the purpose of preserving the marriage by effecting a reconciliation between the parties or an amicable settlement of the controversy between them so as to avoid litigation over the issues involved."

30-3-17. Power and jurisdiction of judge.

"The judge of a district court may counsel either spouse of both and may in his discretion require one or both of them to appear before him and, in those counties where a domestic relations counselor has been appointed pursuant to this act, require them to file a petition for conciliation and to appear before such counselor, or may recommend the aid of a physician, psychiatrist, psychologist, social service worker or other specialists or scientific expert, or the pastor, bishop or presiding officer of

> any religious denomination to which the parties may belong. The power and jurisdiction granted by this act shall be in addition to that presently exercised by the district courts and shall not be in limitation thereof."

STATEMENT OF THE CASE.

The State of Utah has established clear public policy and procedures to preserve marriages and families. It has enacted laws to allow counseling and reconciliation with a bright line separating proceedings that save families from those that dissolve them. The state courts pretend that no such line exists for this fundamental constitutional right of family integrity and have denied every attempt to preserve our family.

In Utah, single people are allowed to live and have families just like married people and then split up and make all the decisions to divide the money, property and children without ever seeing a courthouse or an attorney. They are completely free of any government control in their relationship, even though they are in *exactly* the same situation as ourselves and in spite of the fact that the U. S. Supreme Court says the Fourteenth Amendment demands that married people and single people must be treated alike (*Eisenstadt v. Baird, 405 US 438, 31 L.Ed2d 349, 92 S.Ct. 1029).*

Piper and I have been forced to go to court by the government in control of our marriage relationship. Neither of us broke any laws and we went to the courthouse in obedience to the law. At first blush it would appear that these laws are unconstitutional on their face to burden us beyond the zero requirements of unmarried people who live together, but that is not the problem. The real mockery and travesty is our treatment once we arrive at the Courthouse.

Suddenly the courts strip us of many fundamental constitutional rights to force us on the most direct, fastest course to divorce. They ignore public policy and clear, mandatory laws to save marriages and seize control of every aspect of our lives in attempt to

anger, frustrate and deprive us into turning against each other. Utah courts and many other state courts have perverted the law and robbed married couples of so many fundamental rights because mootness effectively has barred judicial oversight of the U. S. Supreme Court.

When my wife filed a complaint for divorce, I told the court that we could reconcile (R.47) [Record page 47] (Also R. 52). The court, instead, restrained me from my wife and property (R.73). Although the guardian ad litem told the court that the complaint was in error and we needed counseling (R.83), the court sent letters that said we were expected to settle for divorce or face "sanctions, attorney fees"(R.105) and a threat of deprivation of property, "income" and "assets" (R.115) if we did not proceed in divorce.

Rather than be bullied into stepping over the bright line and into divorce proceedings, I filed, in accordance to state law, a Petition for Conciliation and Counseling (R.101-103,107-109) (A-29, A-32) [Appendix pages 29,32]. The commissioner refused to grant these mandatory laws and clear public policy, calling them all invalid (R.104, 131-132) (A-5).

An appeal (R.124-126) (A-27) to the district judge was fruitless. Although the law requires that, "each district court.... ***shall*** exercise the family counseling powers conferred by this act" (Utah Code 30-3-12, emphasis added), and "public policy" (Utah Code 30-3-11.1) says the purpose of requiring us to go to court is to prevent "broken homes and to take reasonable measures to preserve marriages .... preserving and protecting family life and the institution of matrimony by providing .... family counseling, the reconciliation of spouses and the amicable settlement of domestic and family controversies", the judge refused to see or listen to us, (R.153-154) expressing the view (R.128) that she should be given more "financial resources" to do that part of her job.

A letter was then written to the judge (R.159-172) which included a Utah Law Review article (R.210-225) explaining in detail how this counseling by the judge, required by law, could be short and very successful in preserving marriages. This letter explained Piper's

unhappiness was caused by two recent miscarriages and a baby born dead (R.163,168) and the criticism and control of neighbors and relatives (R.159, 162, 168) who wanted her "to marry another person" and who "told my wife to get a divorce"(R.167). In particular **this letter told the judge** (R.166):

> ***"[Due process of law] No person shall be deprived of life, liberty or property without due process of law."***
>
> "Will the government take away my wife, my children, my home and property and even my income because a few jealous people told my wife to get a divorce? I think the sanctity of the marriage covenant deserves much more support than that." (Emphasis added).

The letter also quoted a recent Time magazine article that the inevitable result of divorce for our children would be:

> "A disputed landscape of anger and grief .... unable to fit in with peers .... adults crippled in their own attempts of love".

And quoted a recent U. S. News and World Report article:

> "Rich or poor, white or black, the children of divorce and those outside of marriage struggle through life at a measurable disadvantage."

The judge refused to read the letter and other information and three days later signed an order denying the marriage preservation procedures (R. 226,227) (A-4).

A petition for extraordinary relief (A-20) was filed in the Utah Court of Appeals reiterating these plain laws that the district courts are ignoring and quoting many expert authorities about the severe strain that a death of a child is to a marriage. The Court of Appeals signed an order "denied" (A-3). A "Request for Reconsideration" to

that court said (A-17 to A-19):

> "To deny our family the ' family counseling powers' mandated by the Legislature is to ***deny due process of law...***"
>
> "The judgment cannot survive the 'strict scrutiny standard' that must apply with the **denial of fundamental constitutional rights.**"
>
> "The first issue of my brief asks the court to provide the opportunity to try and save the marriage as provided by law. **To fail to do so is denial of due process and equal protection...."**
>
> **"Constitutional law allows the State the police powers to regulate marriage in the public interest, but only to the extent of that interest."**
>
> "The reason my wife and I came to the courthouse was because Utah is interested in preserving marriage, The State has no special interest in how we spend our money, divide our property or the custody of the children. **Those are fundamental rights in which the State has no compelling interest. After all, two single people can live together without marriage and have children and live lives like married people - and then split up and make all those decisions without the State stepping in. Constitutional law demands the State show compelling interest to classify and treat us any different. Utah law cannot deprive us of constitutional rights that are accorded to other persons."** *(*Emphasis added*)*

It was all to no avail - the Motion for Reconsideration was denied by the Utah Court of Appeals (A-2).

The *Utah Supreme Court* was given a "Petition for Extraordinary Writ" (A-9) that included the strongest possible arguments of this federal question of our constitutional rights under the Ninth and Fourteenth Amendments to preserve our marriage and

family, (*in re J.P. Utah, 648 P.2d 1364).* Among other citations the following was given to the Utah Supreme Court (*in re J.P.*, page 1372) (A-13):

> "In *Meyer v. Nebraska* 262 U.S. 390, 399, 43 S.Ct. 625, 626, 67 L.Ed. 1042 (1923), **the Supreme Court included family relationships in the "liberty" of which a state cannot deprive any person without due process of law under the Fourteenth Amendment to the United States Constitution:**
>
> "While this Court has not attempted to define with exactness the liberty thus guaranteed, the term has received much consideration and some of the included things have been definitely stated. Without doubt, it denotes not merely freedom from bodily restraint but also the right of the individual....to marry, establish a home and bring up children, to worship God according to the dictates of his own conscience, and generally to enjoy those privileges long recognized at common law as essential to the orderly pursuit of happiness by free men...."
>
> (A-14) "**The Ninth Amendment to the United States Constitution** states, "The enumeration in the Constitution, of certain rights, shall not be construed to deny or disparage others retained by the people.' *See generally Griswold v. Connecticut,* 381 U.S. 479, 486-99, 85 S.Ct. 1678, 1682-90, 14 L.Ed.2d 510 (1965)(Goldberg, J. concurring); L. Tribe, *American Constitutional Law, § 11-3 (1978).*
>
> (A-14)(Page 1373) **"The rights inherent in family relationships - husband-wife, parent-child, and sibling - are the most obvious examples of rights retained by the people. They are "natural," "intrinsic," or "prior" in the sense that our Constitutions presuppose them, as they presuppose the right to own and dispose of property.** Decisions of the United States Supreme

> Court have declared that "[t]he freedom to marry has long been recognized as one of the vital personal rights essential to the orderly pursuit of happiness by free men."
>
> (A-16) (Page 1374) "In *Stanley v. Illinois*, 405 U.S. 645, 651, 92 S.Ct. 1208, 1212, 31 L.Ed.2d 551 (1972), **the United States Supreme Court summarized** the legal effects of these conclusions that the rights embodied in family relationships are inherent, natural, and retained rights as follows: **"The integrity of the family unit has found protection in the Due Process Clause of the Fourteenth Amendment, the Equal Protection Clause of the Fourteenth Amendment, and the Ninth Amendment."** (Emphasis added)

These powerful pronouncements of the U.S. Supreme Court were all ignored by the Utah Supreme Court and the petition to allow us the opportunity of preserving our marriage and family was denied (A-1). At no time, from start to finish, from the lowest court to the highest state court did Piper and I have a single chance to talk with a judge about "the integrity of our family" and about saving our marriage or even a simple hearing to explain the basis and circumstances for such a reasonable request. No matter that it is a fundamental constitutional right, no matter that it is mandatory state law and explicit public policy of Utah.

ARGUMENT

The larger, broad federal question of whether most states have invaded the right of privacy of couples who consider divorce in their relationship must wait for another day, because I remain faithful to my wife and on the side of the line of trying to save our marriage. If two businessmen decide to dissolve their relationship, they are not required to go to court to divide the assets or to get permission. If several college students buy a home and share expenses on the property, - upon graduation and ending their relationship, - they are not compelled to go to court to decide a fair distribution of what they

jointly own. Married couples can separate and move far apart and never see each other again. They remain free of unwanted government intrusion in their relationship and in dividing debts, alimony, property and custody of the children. Single people, who never married can choose to live together, have children, acquire joint property, and enjoy the rights of married people then repeatedly end and recommence their relationship without interference of the government. In all of society's relationships, a solitary class of people is compelled by the states to court: married couples who seek divorce. Apparently this class of people are no longer capable and are not allowed their constitutional rights to make decisions that everyone else makes.

Because the states have given the courts an absolute monopoly on this class of people (no one can get a divorce except through the state courts) the monopoly over time, acquires the inherent evils of all monopolies: the services and procedures degenerate to serving entirely the convenience and wants of the provider at the expense of the customer. This is especially true in this situation because not only are the courts the only entity to provide the "product" [of divorce], they have the power of law and summons to force you to buy this "product" against your will and "mootness" prevents the federal questions from ever escaping the state courts.

Take the example of the case just decided by the Utah Supreme Court while our case was pending before them. A childless couple has been seeking a divorce for seven years that has generated legal fees over $65,000.00 (*Willey v. Willey,* 951P.2d 226 [Utah 1997]). In spite of the "paucity of the estate", the Supreme Court's only solution is to keep them on this never ending merry-go-round and ordering a third trial over the same single issue. These people broke no laws, but are being burdened by the government, against their will, over an issue that their unmarried neighbors decide every day without spending a penny in legal fees. Only a monopoly can provide such poor service and get away with it without changing a single procedure to prevent its recurrence, and yet it still escapes review of the United States Supreme Court. Justice Durham of the Utah Supreme Court says (P.234, concurring in result):

> "Moreover, another remand will surely cost both parties more in attorney fees through **no fault of their own...**"
>
> "As the majority observes, '[t]he marital estate is insignificant in comparison to the legal fees incurred in its allocation.' However, *a very significant* portion *of the fees* accrued to this point appears to have resulted from the three appeals and two remands *necessitated by the trial court's failure* to make adequate findings of fact *and the Court of Appeals' unsuccessful efforts* to meliorate, *not by the parties' actions* or inadequate lawyering." (Emphasis added).

Even Justice Howe observes(P. 236, concurring and dissenting):

> "[The Courts] should not add to that distress by saddling the parties with unrealistic attorney fees that they must struggle to pay in future years and thus frustrate the new start they seek."

The opinion of the court doesn't care that this couple was only married for eight years and is starting them back at the trial court after seven years of litigation, without changing the root causes of such gross injustice. It says (P.234):

> "Although we are aware of the unfortunate length and expense of this litigation, it would be a *greater injustice to the judicial system* as a whole if we were to allow an appellate court to substitute its own judgment for that of the trial court...." (Emphasis added)

Only in a monopoly! The Salt Lake Tribune even lambastes the courts (Dec. 31, 1997, Section B1,3) saying:

> ".... Thanks to a Utah Supreme Court ruling that sends the case back to Third District Court for a

> third trial .... the case has bounced between the trial and appellate courts .... the five-judge *high court was divided on many issues* .... justices had differing opinions .... frustrated appellate judges .... the courts - not the Willeys and their attorneys - are to blame ...." (Emphasis added).

The United States Supreme Court should review the federal rights of law-abiding citizens, who, during divorce, are solely compelled to state courts, by reviewing the unjust treatment that Piper and I have also received. This petition is purposely limited to our constitutional right to keep our family together and excludes the court's proceedings that cross the line and dissolves families because we cannot argue both sides of the line at once (we cannot seek the rights dissolving families without rendering moot our rights to preserve the family).

If the United States Supreme Court does not review our case, the states will have a green light to continue to pretend that divorcing couples have no rights to their property, money, or children and continue to subject these people to heavy-handed procedures that amounts to little more than stealing money from the poor, struggling familes - that could be used for nice cars and vacations for their children - and giving that money to lawyers so the attorney's children can drive fancy cars and go on exotic vacations.

Simply put, this case petitions this court to get the state courts to cease impairing reconciliation and to tell the state courts that the Fourteenth Amendment's due process clause requires them to allow us the privilege and benefit of state laws for family preservation and conciliation. Last year the United States Supreme Court declared (*Washington v.. Glucksberg* , 117 S.Ct. 2258, 2267 (1997) [Citations omitted] that the "due process clause" protects "against government interference with certain fundamental rights" including "marital privacy", that (P.2268) the Fourteenth Amendment "forbids the government to infringe .... 'fundamental' liberty interests *at all* [your emphasis], no matter what process is provided, unless the infringement in narrowly tailored to serve a compelling state interest.

On page 2262 this court says:

> "We begin, as we do in all due-process cases, by examining our nation's history, legal traditions, and practices."

Historically divorce is an ecclesiastical function (*Anonymous Wife v. Anonymous Husband*, 739 P.2d 791 [Ariz. App. 1986] page 793). Government became involved in marriage during western expansion because churches were unavailable and stayed involved to uphold marriage in the interest of society and children.

In Utah, the legislature continues to pass laws to preserve and stabilize marriage, using the word "**shall**" (Utah Code 30-3-12). This year the U.S. Supreme Court said: (*Lexecon v. Milberg Weiss Bershad Hynes & Lerach*, 118 S.Ct. 956 (1998) page 962 (citations omitted):

> "The panel's instruction comes in terms of mandatory "shall", which normally creates an obligation impervious to judicial discretion."
>
> —"If we do our job of reading the statute whole, we have to give effect to this plain command, even if doing that will reverse the longstanding practice under the statute and the rule, ("Age is no antidote to clear inconsistency with a statute.")

The United States Supreme Court's intervention is our only hope to stop Utah State court's practice "simply to ignore" (P.962) and their similar "like use of blinders" (P.962). Similarly this year in *Regions Hosp.v. Shalala,*118 S,Ct. 909, 917 (1998) [Footnote 5]:

> ".... The Court has said [o]ver and over: in expounding a statute, we must not be guided by a single sentence or member of a sentence, but look to the provisions of the whole law, and to its object and policy."
>
> (Page 920) "We are not at liberty to construe

> any statute so as to deny effect to any part of its language. 'It is a cardinal rule of statutory construction that significance and effect shall, if possible, be accorded to every word."

Our family needs help. It is difficult to admit, but true. It is no different than, when we get sick, we admit the need of the help of a doctor. Plainly, Utah's Legislature passed laws that said we are entitled to this help through the oversight of the courts. I asked for this help. The state courts refused. I petition for writ of certiorari because it is the only option left to preserve our marriage and family. Some situations simply require outside help. For example in *Marriage, by Spencer W. Kimball, page 16:*

> "Well-meaning relatives have broken up many a home. Numerous divorces are attributable to the interference of parents who thought they were only protecting their loved children."

This problem, and its sheer magnitude and challenge to overcome is explained in detail in *Married People Staying Together in the Age of Divorce* by Francine Klagsbrun, page 173,174:

> "The worst kinds of family fracases come when parents are excessively controlling and children must fight to fend them off. Although, as I said, many parents want to hold on to their children longer than they should, *some parents simply do not want to let go at all. For such parents, a son's or a daughter's marriage is too threatening to the bond they have with that child. They don't want to be displaced, and they refuse to accept or recognize the fact that they have been.* In some distorted way they think that by asserting themselves in the marriage they will "show" their children - that they will not give in, that they count, that they can still call the shots.
>
> "*If such parents succeed, it is often at the*

> *expense of their child's marriage.* If they fail, it is because their child used extraordinary strength to stand up to them and to declare, either openly or through action: *My spouse now comes first in my life.* It is a declaration of independence nobody can make but the child, and it is one that takes a strong mind and firm commitment to one's freedom and one's marriage....
>
> Most of us believe that our parents want what is good for us, that they understand and support our need for independence, that they welcome our marriages and our spouses and families - and to varying degrees this is true of most parents. When parents fall short of these fantasies, it's easier to make excuses for them than to accept the idea that they may not care for us as much as we want them to, or as often is the case, they are placing their own egos ahead of concern for us. *It's easier to go along with parents, to give in when we can, than to confront them directly and risk hurting or angering them. And yet the declaration must be made, one way or another, if the marriage is to succeed."* (Emphasis added).

I made this declaration, when my grief stricken wife no longer could, by filing a **Petition for Conciliation and Counseling** in the Utah district Court (A-29,A-32) and in pursuing, on appeal to all the courts up to the United States Supreme Court, the district court's denial of that petition.

If we cannot turn to the courts for support of our marriage when faced with such daunting challenges, then the state courts have ceased to uphold family and marriage and public policy and have become, instead, their adversaries. In Utah law there is a single vague, discretionary provision that allows the court to help in the division of property during divorce [Utah Code 30-3-5(1)]. The courts have seized upon that reference to expend vast amounts of time and money to make themselves tyrants in telling us what to do with our property and threatening us if we don't comply. Repeatedly the

Utah district court scheduled conferences to settle our property using this discretionary law, all the while saying they have no resources to give five minutes of their time for *public policy* and *mandatory* laws meant to save marriages.

The Fourteenth Amendment says: "No state shall.... enforce any law which shall abridge the privileges .... of citizens of the United States". As I repeatedly spurned the court's attempts to make itself a party in dividing our property, seeking instead it's help in saving our marriage, the court simply seized our property and decided everything for themselves. Did Piper and I and others of our class involved in divorce proceedings cease to be "citizens of the United States?" Unmarried couples are allowed to make these property decisions without the courts making themselves a party!

The threshold question in an equal protection challenge is whether the legislation results in dissimilar treatment of similarly situated individuals. When a classification singles out a group of persons for disparate treatment from others who are similarly situated then the Fourteenth Amendment is being violated and will continue to be abused until the United States Supreme Court grants certiorari and comes in defense of the Constitution. Because a vast number of Americans, including unheard children, are affected by divorce proceedings in all the states, it is of utmost importance that this court review our case to establish the rights of people involved in these proceedings. The state courts need to know that the legislatures are right to provide laws meant to preserve and strengthen families and the right to seek "integrity" of the marriage and family is real and non-illusory.

> "Law's words, however technical they may sound, are not magic formulas; they must be read in light of their purposes, if we are to avoid essentially arbitrary applications and harmful results (*Brogan v. U.S.* 118 S.Ct. 805,817 (1998) [Justices Stevens with whom Justice Breyer joins, dissenting - footnote 1]):
>
> "We have described the "root requirement" of the due process clause as being "that an individual

> be given an opportunity for a hearing *before* he is deprived of any significant property interest." (Your emphasis) (*Cleveland Board of Education v. Loudermill* 470 U.S. 532,542, 105 S.Ct. 1487, 1493, 84 L.Ed2d 494 [1985]).

It is important that the Supreme Court of the United States pronounce, in this case, that the respondent has the right to be heard of how the marriage can be saved before being constrained to proceed in divorce for the sake of the children and society. This Supreme Court may need to aver to the states, and to Utah in particular, that married couples are still Americans with the same rights, even if involved in proceedings that could lead to divorce.

Marriage and families are the nation's foundation. Of tens of thousands of species on earth, the human child takes longer than all the rest to reach adulthood. Upholding the sanctity of marriage and the couple's rights secures stability for a child's growth and, in the end, safeguards society and our nation. If the courts are unwilling to do their part, then it really doesn't matter what they choose to do instead and law-abiding couples like us should no longer be required to attend court in regulation of our relationship.

What is clear in our case is that the Utah state courts are unwilling to follow the law, believing falsely that by depriving me of home, property, children, income, etc. that they can turn me against my wife. They have grossly misjudged, for I love my wife more than all these. We now need this court to grant certiorari to defend our basic rights; for millions of Americans find themselves in the same situation each year. When state courts succeed in making adversaries of spouses, they render moot their failure to uphold marriage and they create a cash cow for attorneys at the expense of the real needs of the children.

The United States Supreme Court said this year (*Allentown Mack Sales and Service, Inc. v. N.L.R.B.* 118 S.Ct. 818,827 [1998]) that: "It is hard to imagine a more violent breach" than to apply a rule different from the rule announced. Our family deserves the remedy

that this court provided this year in *Newsweek, Inc. v. Florida Dept. of Revenue 118 S.Ct. 904,905 (1998) (citations omitted):*

> "We emphasized a state 'has the flexibility to maintain an exclusively predeprivation remedial scheme, so long as that scheme is "clear and certain." **But a state may not "bait and switch" by holding out what plainly appears to be a "clear and certain"** post- deprivation **remedy and then declare**, only after the disputed taxes have been paid, **that no such remedy exists.**"
>
> "Newsweek **is entitled to a clear and certain remedy** .... we grant the petition for writ of certiorari, vacate the judgment, and remand for proceedings not inconsistent with this opinion."

Piper and I did not "shed our constitutional rights at the courthouse doors". We, and numberless others in our class, retain all the rights provided to all Americans under the Fourteenth Amendment. In concurring in part and dissenting in part, Justice Stevens warns with the words of Justice Brandeis (*New Jersey v. T.L.O.* 105 S.Ct. 733, 760 [1985]):

> "Our government is the potent, the omnipresent teacher. For good or for ill, it teaches the whole people by its example. Crime is contagious. If the Government becomes a lawbreaker, it breeds contempt for law; it invites every man to become a law unto himself; it invites anarchy".

For the foregoing reasons, this petition for writ of certiorari should be granted. Dated the 9th day of April, 1998.

Respectfully submitted,

Dan Rodney Joos
Petitioner *Pro Se*